

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 8, “Forms and Communications,” Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 53, “Determination of Net Income,” Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

These amendments are proposed as a result of 2012 Iowa Acts, House Files 2337 and 2465, and 2012 Iowa Acts, Senate File 2322.

Item 1 amends subrule 8.2(2) to update the mailing addresses used when corresponding with the Department.

Item 2 amends subrule 8.3(2) to update the contact information for the Department regarding the approval of substitute tax forms.

Item 3 amends rule 701—40.38(422) by adding new subrule 40.38(10) regarding the partial capital gain deduction allowed for individual income tax for the sale of employer securities to an Iowa employee stock option plan.

Item 4 amends the implementation sentence for rule 701—40.38(422).

Item 5 amends rule 701—40.70(422) by adding new subrule 40.70(3) regarding the repeal of the exclusion from individual income tax for income from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television or video projects.

Item 6 amends the implementation sentence for rule 701—40.70(422).

Items 7 and 8 amend subrule 42.19(5) and the implementation sentence for rule 701—42.19(404A,422) to provide for changes for individual income tax related to the allocation of the historic preservation and cultural and entertainment district tax credit earned by a partnership, limited liability company or S corporation.

Item 9 amends rule 701—42.24(15E,422) for individual income tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year.

Item 10 amends rule 701—42.37(15,422) by adding new subrule 42.37(4) for individual income tax to reflect the repeal of the film qualified expenditure tax credit.

Item 11 amends the implementation sentence for rule 701—42.37(15,422).

Item 12 amends rule 701—42.38(15,422) by adding new subrule 42.38(3) for individual income tax to reflect the repeal of the film investment tax credit.

Item 13 amends the implementation sentence for rule 701—42.38(15,422).

Item 14 amends rule 701—42.44(422) to update the sequence of tax credits for individual income tax.

Item 15 amends 701—Chapter 42 by adding new rule 701—42.49(422) relating to the volunteer fire fighter and volunteer emergency medical services personnel tax credit for individual income tax.

Item 16 amends rule 701—52.12(422) to update the sequence of tax credits for corporation income tax.

Item 17 amends subrule 52.18(5) to provide for changes for corporation income tax related to the allocation of the historic preservation and cultural and entertainment district tax credit earned by a partnership, limited liability company or S corporation. This change is similar to the change in Item 7.

Item 18 amends rule 701—52.23(15E,422) for corporation income tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year. This change is similar to the change in Item 9.

Item 19 amends paragraph 52.28(2)“a” by adding an example regarding the amortization of the investment tax credit for businesses approved under the High Quality Jobs Program and the Enterprise Zone program.

Item 20 amends rule 701—52.34(15,422) by adding new subrule 52.34(4) for corporation income tax to reflect the repeal of the film qualified expenditure tax credit. This change is similar to the change in Item 10.

Item 21 amends the implementation sentence for rule 701—52.34(15,422).

Item 22 amends rule 701—52.35(15,422) by adding new subrule 52.35(3) for corporation income tax to reflect the repeal of the film investment tax credit. This change is similar to the change in Item 12.

Item 23 amends the implementation sentence for rule 701—52.35(15,422).

Item 24 amends rule 701—53.25(422) by adding new subrule 53.25(3) regarding the repeal of the exclusion from corporation income tax for income from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television or video projects. This change is similar to the change in Item 5.

Item 25 amends the implementation sentence for rule 701—53.25(422).

Item 26 amends rule 701—58.13(15E,422) for franchise tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year. This change is similar to the change in Items 9 and 18.

Item 27 amends rule 701—58.19(15,422) for franchise tax to reflect the repeal of the film qualified expenditure tax credit.

Item 28 amends rule 701—58.20(15,422) for franchise tax to reflect the repeal of the film investment tax credit.

Items 29 through 33 amend subrules 89.3(3) and 89.8(4) and paragraphs 89.8(7)“t,” 89.8(8)“c” and 89.8(8)“n” to reflect changes for fiduciary income tax regarding the calculation of income for nonresident decedents and for estates and trusts with a situs outside Iowa. These changes reflect that nonresident decedents and estates and trusts with a situs outside Iowa are taxed similarly to nonresidents of Iowa for individual income tax.

Item 34 amends subrule 89.8(11) to update the list of tax credits that can be applied against fiduciary income tax.

Item 35 amends the implementation sentence for rule 701—89.8(422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 24, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 11, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 11, 2012.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses in the state of Iowa.

These amendments are intended to implement Iowa Code sections 422.7 and 422.11D as amended by 2012 Iowa Acts, House File 2465, section 31; Iowa Code sections 422.7, 422.33, 422.35 and 422.60 as amended by 2012 Iowa Acts, House File 2337, sections 33 to 36; Iowa Code section 422.12 as amended by 2012 Iowa Acts, Senate File 2322; and 2012 Iowa Acts, House File 2337, sections 38 to 40.

The following amendments are proposed.

ITEM 1. Amend subrule 8.2(2) as follows:

8.2(2) Mailing addresses. The following post office box numbers should be used when corresponding with the department. All addresses are completed: Des Moines, Iowa 50306.

<u>Box Number</u>	<u>Addressee</u>
1792	Individual Income Tax Returns
9187	Motor Vehicle Fuel Tax Returns
10306	Deposit Unit
<u>10330</u>	<u>Central Collections Unit</u>
10411	Withholding Tax Returns
10412	Sales and Use Tax Returns
10413	Franchise Tax Returns and Estimated Payments
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge
10456	Compliance Division Examination Section
10457	Policy and Communications Division
10458	Field Services
10459	Property Tax Rent Reimbursement Claims
10460	Internal Services Division Technology and Information Management Division
10465	Revenue Operations Division Customer Accounts Registration Services
10466	Individual Estimated Payments
10467	Fiduciary and Inheritance Tax

<u>Box Number</u>	<u>Addressee</u>
10468	Corporation Income Tax Returns and Estimated Payments
10469	Property Tax
10470	Withholding—Verified Summary of Payments Report
10471	Accounts Receivable
10472	Hearings Section
10486	<u>Property Assessment Appeal Board</u>

ITEM 2. Amend subrule 8.3(2) as follows:

8.3(2) Approval of substitute forms. Prior approval of substitute forms may be obtained by writing ~~Technology and Information Management Division, P.O. Box 10460 Iowa Department of Revenue, Substitute Forms, 1305 East Walnut Street, Des Moines, Iowa 50306; by faxing (515)242-6040; 50319,~~ or by a PDF submission via e-mail to IDRSubForms@iowa.gov. ~~Fax communication or PDF submissions via e-mail to the department of approval requests are acceptable in limited circumstances. Normally, approval will be granted for use of substitute forms for one year only. Those forms listed on the substitute forms checklist should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration.~~

ITEM 3. Adopt the following **new** subrule 40.38(10):

40.38(10) Sale of employer securities to an Iowa employee stock ownership plan. For tax years beginning on or after January 1, 2012, 50 percent of the net capital gain from the sale or exchange of employer securities of an Iowa corporation to a qualified Iowa employee stock ownership plan (ESOP) may be eligible for the Iowa capital gain deduction. To be eligible for the capital gain deduction, the qualified Iowa ESOP must own at least 30 percent of all outstanding employer securities issued by the Iowa corporation after completion of the transaction.

a. Definitions. The following definitions apply to this subrule:

“*Employer securities*” means the same as defined in Section 409(l) of the Internal Revenue Code. “Employer securities” includes common stock issued by the employer and preferred stock if the provisions of Section 409(l)(3) of the Internal Revenue Code are met.

“*Iowa corporation*” means a corporation whose commercial domicile, as defined in Iowa Code section 422.32, is in Iowa. A limited liability company is not considered an Iowa corporation.

“*Qualified Iowa ESOP*” means an employee stock ownership plan, as defined in Section 4975(e)(7) of the Internal Revenue Code, and trust that are established by an Iowa corporation for the benefit of the employees of the corporation.

b. The material participation requirements set forth in subrule 40.38(1) do not apply for the sale of employer securities to an Iowa ESOP. In addition, the holding period requirements set forth in paragraph 40.38(2) “a” do not apply for the sale of employer securities to an Iowa ESOP.

ITEM 4. Amend rule **701—40.38(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2465, division XII.

ITEM 5. Adopt the following **new** subrule 40.70(3):

40.70(3) Repeal of exclusion. The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 40.70(2), the taxpayer can continue to exclude \$2,500

of income on the Iowa individual income tax return for the 2012 and 2013 tax years since the contract or agreement was entered into on or before May 25, 2012.

ITEM 6. Amend rule **701—40.70(422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 5,~~ 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2337, section 33.

ITEM 7. Amend subrule 42.19(5) as follows:

42.19(5) *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity.*

a. Projects beginning prior to July 1, 2005. When the taxpayer that has earned a historic preservation and cultural and entertainment district tax credit is a partnership, limited liability company, S corporation, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit shall be allocated to the individual owners. The business entity shall allocate the historic preservation and cultural and entertainment district tax credit to each individual owner on the same pro-rata basis as the earnings of the business are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a partner of a partnership received 25 percent of the earnings or income of the partnership for the tax year in which the partnership had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to this partner.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

c. Tax credits reserved for fiscal years beginning on or after July 1, 2012. For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation.

ITEM 8. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by 2011 Iowa Acts, Senate Files 517 and 521, and Iowa Code section 422.11D as amended by 2012 Iowa Acts, House File 2465, section 31.

ITEM 9. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For the 2012 calendar year, the total amount of endow Iowa tax credits authorized for the~~

~~2011 calendar year is \$4,551,813, so \$4,642,945; the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent)~~ \$232,147.25 (\$4,642,945 multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 10. Adopt the following **new** subrule 42.37(4):

42.37(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 11. Amend rule **701—42.37(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, and Iowa Code section 422.11F~~ 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 12. Adopt the following **new** subrule 42.38(3):

42.38(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 13. Amend rule **701—42.38(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 4, and Iowa Code section 422.11U~~ 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 14. Amend rule 701—42.44(422) as follows:

701—42.44(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be deducted in the following sequence:

1. Personal exemption credit.
2. Tuition and textbook credit.
3. ~~Nonresident and part-year resident credit~~ Volunteer fire fighter and volunteer emergency medical services personnel tax credit.
4. ~~Franchise tax credit~~ Nonresident and part-year resident credit.
5. ~~S corporation apportionment credit~~ Franchise tax credit.
6. ~~Disaster recovery housing project tax credit~~ S corporation apportionment credit.
7. ~~School tuition organization tax credit~~ Disaster recovery housing project tax credit.
8. ~~Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit)~~ School tuition organization tax credit.
9. ~~Endow Iowa tax credit~~ Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
10. ~~Agricultural assets transfer tax credit~~ Endow Iowa tax credit.
11. ~~Film qualified expenditure tax credit~~ Agricultural assets transfer tax credit.
12. ~~Film investment tax credit~~ Film qualified expenditure tax credit.
13. ~~Redevelopment tax credit~~ Film investment tax credit.
14. ~~Investment tax credit~~ Redevelopment tax credit.
15. ~~Wind energy production tax credit~~ Investment tax credit.
16. ~~Renewable energy tax credit~~ Wind energy production tax credit.
17. ~~Redeemed Iowa fund of funds tax credit~~ Renewable energy tax credit.
18. ~~New jobs tax credit~~ Redeemed Iowa fund of funds tax credit.
19. ~~Economic development region revolving fund tax credit~~ New jobs tax credit.
20. ~~Charitable conservation contribution tax credit~~ Economic development region revolving fund tax credit.
21. ~~Alternative minimum tax credit~~ Geothermal heat pump tax credit.
22. ~~Historic preservation and cultural and entertainment district tax credit~~ Solar energy system tax credit.

23. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Charitable conservation contribution tax credit.
24. ~~Research activities tax credit~~ Alternative minimum tax credit.
25. ~~Out-of-state tax credit~~ Historic preservation and cultural and entertainment district tax credit.
26. ~~Child and dependent care credit or early childhood development tax credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
27. ~~Motor fuel credit~~ Research activities credit.
28. ~~Claim of right credit (if elected in accordance with rule 701—38.18(422))~~ Out-of-state tax credit.
29. ~~Wage-benefits tax credit~~ Child and dependent care credit or early childhood development tax credit.
30. ~~Soy-based cutting tool oil tax credit~~ Motor fuel credit.
31. ~~Refundable portion of investment tax credit, as provided in subrule 42.14(2)~~ Claim of right credit (if elected in accordance with rule 701—38.18(422)).
32. ~~E-85 gasoline promotion tax credit~~ Wage-benefits tax credit.
33. ~~Biodiesel blended fuel tax credit~~ Refundable portion of investment tax credit, as provided in subrule 42.14(2).
34. ~~Soy-based transformer fluid tax credit~~ E-85 gasoline promotion tax credit.
35. ~~E-15 plus gasoline promotion tax credit~~ Biodiesel blended fuel tax credit.
36. ~~Earned income tax credit~~ E-15 plus gasoline promotion tax credit.
37. ~~Estimated payments, payment with vouchers and withholding tax~~ Earned income tax credit.
38. ~~Estimated payments, payment with vouchers, and withholding tax.~~

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, 422.11S, 422.11T, 422.11U, 422.11W, 422.11X, 422.12, 422.12B, and 422.12C and 2011 Iowa Acts, Senate File 531, section 35 422.110 and 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 15. Adopt the following **new** rule 701—42.49(422):

701—42.49(422) Volunteer fire fighter and volunteer emergency medical services personnel tax credit. Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel.

42.49(1) Definitions. The following definitions are applicable to this rule:

“Emergency medical services personnel” or *“EMS personnel”* means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance with Iowa Code chapter 147A.

“Volunteer fire fighter” means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B.

42.49(2) Calculation of the credit.

a. The credit is equal to \$50 if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year.

b. If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire year, the \$50 credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2013, and remained a volunteer for the rest of calendar year 2013. The individual is considered a volunteer for nine months of 2013. The tax credit for 2013 is equal to \$38 (\$50 multiplied by 9/12 equals \$37.50; rounding to the nearest dollar results in a \$38 credit).

c. If an individual is both a volunteer fire fighter and a volunteer EMS personnel during the same month, a credit can be claimed for only one volunteer position for that month. Therefore, if an individual

was both a volunteer fire fighter and volunteer EMS personnel for all of 2013, the tax credit will equal \$50.

42.49(3) Verification of eligibility for the tax credit. An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a volunteer fire fighter or volunteer EMS personnel for the months for which the tax credit is being claimed. The written statement does not have to be attached to a tax return claiming the credit. However, the individual may be requested to provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by 2012 Iowa Acts, Senate File 2322.

ITEM 16. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. Film qualified expenditure tax credit.
8. Film investment tax credit.
9. Redevelopment tax credit.
10. Investment tax credit.
11. Wind energy production tax credit.
12. Renewable energy tax credit.
13. Redeemed Iowa fund of funds tax credit.
14. New jobs tax credit.
15. Economic development region revolving fund tax credit.
16. ~~Charitable conservation contribution tax credit~~ Solar energy system tax credit.
17. ~~Alternative minimum tax credit~~ Charitable conservation contribution tax credit.
18. ~~Historic preservation and cultural and entertainment district tax credit~~ Alternative minimum tax credit.
19. ~~Corporate tax credit for certain sales tax paid by developer~~ Historic preservation and cultural and entertainment district tax credit.
20. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Corporate tax credit for certain sales tax paid by developer.
21. ~~Research activities tax credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
22. ~~Assistive device tax credit~~ Research activities tax credit.
23. ~~Motor fuel credit~~ Assistive device tax credit.
24. ~~Wage-benefits tax credit~~ Motor fuel credit.
25. ~~Soy-based cutting tool oil tax credit~~ Wage-benefits tax credit.
26. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
27. E-85 gasoline promotion tax credit.
28. Biodiesel blended fuel tax credit.
29. ~~Soy-based transformer fluid tax credit~~ E-15 plus gasoline promotion tax credit.
30. ~~E-15 plus gasoline promotion tax credit~~ Estimated tax and payment with vouchers.
31. ~~Estimated tax and payment with vouchers.~~

This rule is intended to implement Iowa Code sections ~~15.333, 15.335,~~ 422.33, 422.91 and 422.110.

ITEM 17. Amend subrule 52.18(5) as follows:

52.18(5) *Allocation of historic preservation and cultural and entertainment district tax credits to individual owners of the entity.*

a. Projects beginning prior to July 1, 2005. When the business entity that has earned a historic preservation and cultural and entertainment district tax credit is an S corporation, partnership, limited liability company, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit is to be allocated to the individual owners. The business entity is to allocate the historic preservation and cultural and entertainment district tax credit to each individual owner in the same pro-rata basis that the earnings or profits of the business entity are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a shareholder of an S corporation received 25 percent of the earnings of the corporation and the corporation had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to the shareholder.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

c. Tax credits reserved for fiscal years beginning on or after July 1, 2012. For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation.

ITEM 18. Amend rule **701—52.23(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For calendar year 2012, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so \$4,642,945; the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent)~~ \$232,147.25 (\$4,642,945 multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 19. Amend paragraph **52.28(2)“a”** by adding the following **new** example at the end thereof:

EXAMPLE: An eligible business which files tax returns on a calendar-year basis was awarded \$500,000 in investment tax credits in December 2008. The credits were amortized over a five-year period, with \$100,000 of investment tax credits being available for the fiscal years ending June 30, 2009, through June 30, 2013. This equates to the investment tax credit being available for the 2008-2012 calendar year returns since the due date of these returns range from April 30, 2009, through April 30, 2013, which falls within the fiscal years ending June 30, 2009, through June 30, 2013. The eligible business placed the qualifying assets in service during the 2010 calendar year. The eligible business

can claim \$300,000 of investment tax credit for 2010, \$100,000 of investment tax credit for 2011 and \$100,000 of investment tax credit for 2012. Of the \$300,000 claimed for the 2010 tax year, \$100,000 can be carried forward until the 2015 tax year, \$100,000 can be carried forward to the 2016 tax year, and \$100,000 can be carried forward to the 2017 tax year. The seven-year carryforward period is determined by the amortization schedule, not the initial year in which the investment tax credit can be claimed on an Iowa tax return.

ITEM 20. Adopt the following new subrule 52.34(4):

52.34(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 21. Amend rule **701—52.34(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

ITEM 22. Adopt the following new subrule 52.35(3):

52.35(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 23. Amend rule **701—52.35(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 4, 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

ITEM 24. Adopt the following new subrule 53.25(3):

53.25(3) *Repeal of exclusion.* The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 53.25(2), the taxpayer may continue to exclude \$2,500 of income on the Iowa corporation income tax return for the 2012 and 2013 tax years since the contract or agreement was entered into on or before May 25, 2012.

ITEM 25. Amend rule **701—53.25(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 5, 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.35 as amended by 2012 Iowa Acts, House File 2337, section 35.

ITEM 26. Amend rule **701—58.13(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not

exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For calendar year 2012, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so \$4,642,945; the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent) \$232,147.25 (\$4,642,945 multiplied by 5 percent).~~ The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 27. Amend rule 701—58.19(15,422) as follows:

701—58.19(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film qualified expenditure tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development authority (IDED the authority). For information on the qualified expenditures eligible for the credit, how the film qualified expenditure tax credit is claimed, how the film qualified expenditure tax credit can be transferred and other details about the credit, see rule 701—52.34(15,422). See also the authority's administrative rules for the film qualified expenditure tax credit for IDED at 261—Chapter 36.

This rule is intended to implement ~~2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 2012 Iowa Acts, House File 892, section 9 2337, section 36.~~

ITEM 28. Amend rule 701—58.20(15,422) as follows:

701—58.20(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film investment tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development authority (IDED the authority). For information on how the film investment tax credit is claimed, how the film investment tax credit can be transferred and other details about the credit, see rule 701—52.35(15,422). See also the authority's administrative rules for the film investment tax credit for IDED at 261—Chapter 36.

This rule is intended to implement ~~2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 2012 Iowa Acts, House File 892, section 9 2337, section 36.~~

ITEM 29. Amend subrule 89.3(3) as follows:

89.3(3) Part-year trust. A trust that has its situs part of the year within Iowa and part of the same year outside of Iowa is to report its income on Iowa Form IA-1041. Essentially, to report the income, the trust will be treated similarly to a nonresident or part-year resident for Iowa income tax purposes. To complete the return, the trust should complete page one of Form IA-1041, the income and deductions portions of the form. The income and deductions reported in these two portions of the form should include all the trust's income only for the period reported during the tax year at issue when the trust had its situs in Iowa, and all Iowa source income for the tax year at issue, regardless of the situs of the trust. After the previous computation has been completed, then all of the trust's income for the tax year at issue, regardless of the source of the income, is to be reported by completing Schedule C. After Schedule C is completed, then lines 33 through 36 on the first page of the form must be completed to determine the Iowa fiduciary tax due Schedule C of Form IA-1041 is completed to determine a nonresident/part-year resident credit similar to the calculation set forth in rule 701—42.5(422) for individual income tax.

ITEM 30. Amend subrule 89.8(4) as follows:

89.8(4) Reportable income in general—foreign situs estates and trusts. Estates and trusts with a situs outside Iowa must ~~report only that portion of income which is derived from Iowa sources.~~ report all income received from sources within and without Iowa, regardless of whether the income is from real, personal, tangible or intangible property. Foreign situs estates and trusts must also report that portion of the income which is from Iowa sources. Examples of Iowa source income include, but are not limited to: income from real and tangible personal property with a situs in Iowa, such as a farm and from a business located in Iowa; the capital gain portion of an installment sale contract of Iowa situs property;

and wages, salaries and other compensation for services performed in Iowa, but received after the death of the decedent. Iowa source income would not include income from intangible personal property, such as annuities, interest on bank deposits, and dividends, unless the income was derived from a business, trade, profession or occupation carried on in Iowa. See paragraph 89.8(11)“d” for the credit allowed a foreign situs estate and trust for income earned outside Iowa.

~~Foreign situs estates and trusts must report income from intangible personal property, such as annuities, interest on bank deposits and dividends, but only to the extent the income is derived from a business, trade, profession or occupation carried on in Iowa.~~

ITEM 31. Amend paragraph **89.8(7)“t”** as follows:

t. Adjustments to federal taxable income. Iowa Code section 422.4(16) provides that the Iowa taxable income of estates and trusts is federal taxable income, without the deduction for the personal exemption, subject to the specific adjustments set forth in Iowa Code section 422.7 and the modifications relating to federal and state income tax specified in Iowa Code section 422.9. The modifications have these results:

~~1. (1)~~ Federal income tax on the income of Iowa situs estates and trusts is deductible for Iowa income tax purposes in the year paid or accrued depending on the method of accounting.

~~2. (2)~~ Federal income tax owed by Iowa resident decedents at the time of death is a deduction against estate income in the year paid.

~~3. (3)~~ The federal income tax deduction allowable for estates and trusts with a situs outside Iowa must be prorated on the basis the Iowa gross income subject to tax bears to the total gross income subject to federal income tax is the same as the deduction allowed for an estate or trust with a situs in Iowa.

~~4. (4)~~ Federal income tax owed by a nonresident decedent at the time of death must be prorated on the basis the Iowa income included in the federal adjusted gross income bears to the total federal adjusted gross income may be deducted the same as a deduction allowed for an Iowa resident decedent. See 701—subrule 41.3(4) 701—paragraph 41.3(4)“b” for ~~prorating~~ the federal income tax deduction for nonresident individuals.

~~5. (5)~~ Iowa income tax paid by the estate is not a deduction in computing Iowa taxable income.

~~6. (6)~~ The federal exemption allowed to estates and trusts under 26 U.S.C. Section 642(b), that is, \$600 for an estate, \$300 for simple trust and \$100 for a complex trust, is not deductible for Iowa income tax purposes.

~~7. (7)~~ Interest and dividends from federal securities, but not capital gain or loss, is exempt from Iowa income tax and, therefore, is not part of the Iowa taxable income of estates and trusts.

~~8. (8)~~ Interest and dividends from securities of a state and its political subdivisions and from foreign securities are included in Iowa taxable income in the year received, regardless of whether such interest and dividends are exempt from federal income tax. However, see 701—40.3(422) and 89.8(7)“e” for the exemption for certain bonds issued by the state of Iowa and its political subdivisions which are not included in Iowa taxable income.

~~9. (9)~~ See 89.8(7)“m” for the includability of the gain for sales or exchanges before August 6, 1997, excluded by 26 U.S.C. Section 641(c), in the Iowa taxable income of a trust.

~~10. (10)~~ See 701—paragraph 86.5(12)“b” for the inheritance tax exemption for the portion of an employee’s pension or retirement plan subject to Iowa income tax.

ITEM 32. Amend paragraph **89.8(8)“c”** as follows:

c. Taxes. The taxes deductible against the gross income of an estate or trust are limited to the taxes deductible for individual income tax purposes under 26 U.S.C. Section 164, subject to the adjustments specified in Iowa Code section 422.9 relating to federal and state income taxes. Real estate and personal property taxes, including the taxes due, but unpaid at death, are only deductible by the estate on the decedent’s property which is subject to the personal representative’s right of possession. Federal income tax on the income of an estate or trust and federal income tax owing by an Iowa decedent at the time of death, including the federal income tax owing on the decedent’s final return for the year of death, are deductible by the estate or trust in the year paid. ~~The federal income tax liability of a nonresident decedent must be prorated for tax years on or before December 31, 1981.~~ For tax years on or after

January 1, 1982, the federal income tax deduction attributable to Iowa by nonresidents of Iowa shall be the same deduction as is available for resident taxpayers. See 701—subrule 41.3(4) and Iowa Code section 422.5(1) “j.” Examples of taxes not deductible include, but are not limited to: federal estate tax (except federal estate tax paid on income in respect of a decedent); Iowa income and inheritance tax; federal gift taxes; and special assessments increasing the value of property. See 26 U.S.C. Section 275. ~~See 89.8(7) “t” for the proration of federal income tax for foreign situs estates and trusts. In addition, foreign situs estates and trusts are not allowed a deduction from Iowa gross income for real and personal property taxes paid on property located outside Iowa.~~

ITEM 33. Amend paragraph **89.8(8)“n,”** unnumbered paragraph, as follows:

The deduction allowable in any taxable year is limited to a percentage of the total federal estate tax deduction which is determined by the ratio of income in respect of a decedent received for the year to the total amount of the net income in respect of a decedent on which federal estate tax was paid. See 26 U.S.C. Section 691(c) and federal regulation Section 1.691(c)-1 for the computation of the deduction. ~~Estates and trusts with a situs outside Iowa are allowed a deduction only for federal estate tax paid on income in respect of a decedent from Iowa sources.~~

ITEM 34. Adopt the following new paragraphs **89.8(11)“d”** and **“e”**:

d. Nonresident/part-year resident credit. The nonresident/part-year resident credit is available for part-year trusts described in subrule 89.3(3) and trusts whose situs is outside Iowa. See rule 701—42.5(422) for the computation of the nonresident/part-year resident credit allowed for individuals who are either part-year residents of Iowa or nonresidents of Iowa.

e. Other tax credits. All other tax credits set forth in Iowa Code chapter 422, division II, are also available for any estate or trust that meets the criteria for claiming these tax credits.

ITEM 35. Amend rule **701—89.8(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.3 to ~~422.9~~, 422.12, 422.14, 422.23, and 633.471 and chapter 452A.